Supreme Court, U.S.
FILED
05 1085 DEC 15 2005
OFFICE OF THE CLERK

No:

IN THE
Supreme Court of the United States

Faye Wright Simpson

Petitioner

v.

Florida Department of Corrections

Respondent

On Petition For Writ of Certiorari
To the United States Court of Appeals For The
Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

Faye Wright Simpson, Pro-Se
4810 NW 21st Street,
Coconut Creek, FL 33063
(954) 973-6934

Questions Presented

Did the Petitioner's employer willfully violate her due process rights in accordance with the 14th Amendment to the U.S. Constitution, by terminating her employment after and or during the course of several years of her engaging in protected activity?

What is the standardized timeframe for the Courts to determine whether or not an employee's termination is a violation of Title VII, 42 U.S.C. § 2000e when the employee is terminated during ongoing claims alleging retaliation?

Does the Florida Department of Corrections violate the due process rights of it's employees when the termination of it's Correctional Probation Officers and Specialists hinges upon known flawed internal investigations?

Does the Florida Department of Corrections violate the due process rights of it's employees when state officials misrepresent the availability of key evidence before the District Court, while attesting to the availability of the same evidence during simultaneous state proceedings involving identical and or the same claims?

What is the standard for reducing or pro-rating the cost of trial transcripts for "pro-se litigants" when said litigant does not have the ability to pay the required lump sum for trial transcripts in appellate reviews?

Did the 11th Circuit Court of Appeals abuse it's discretion when it denied the Petitioner's "Petition For Rehearing and Request To Obtain Trial Transcript" because as a "pro-se" litigant she initially did not have the ability to pay the required lump sum for trial transcripts in the appellate review?

Does the inability to pay excessive "up front" lump sums of over $1,000 for trial transcripts meet the Courts standard for "inability to pay?"

Did the Florida Department of Corrections exercise a double standard when it terminated the employment of the Petitioner, a "Correctional Probation Specialist" while ignoring the arrest of another "Correctional Probation Specialist for Five Counts of Sexual Battery and Violation of Injunction Against Domestic Violence?

Parties to The Proceedings

Faye Wright Simpson, Petitioner

Charles Fahlbusch, Attorney for Respondent

Honorable William J. Zloch

Florida Department of Corrections

11th Circuit Court of Appeals

United States District Court

Table of Contents

Statement of Basis For Jurisdiction	Page 1 -2
Concise Statement of Case	Pages 2-7
A Direct And Concise Argument Amplifying The Reasons Relied On For Allowance Of The Writ	Pages 8-22

Table of Cited Authorities

Faye Wright Simpson v. Department of Corrections (CIV-02-60236)	Page 4
Faye Wright Simpson v. Florida Department of Corrections (11th Cir. 2005)	Page 1
Faye Wright-Simpson v .Department of Corrections (4th DCA 2004)	Pages 3
14th Amendment to the U.S. Constitution Section (1)	Page 1
Reeves v. Sanderson Plumbing Products Inc.120, S.Ct. 2097, 210 (2000)	Page 16
Loren v. Sasser, 309 F. 3d 1296, 1304 (11th Cir.2002)	Page 20
Richardson v. Henry 902 F. 2d, 414, 415-16 (5th Cir. 1990)	Page 21

Statement of the Basis For Jurisdiction

A Petition for a Writ of Certiorari is being filed to review the decision of (1) the 11th Circuit Court of Appeals opinion affirming the District Courts order granting partial summary judgment and judgment as of a matter law in favor of the Respondent, on May 19, 2005- in Faye Wright Simpson v. Florida Department of Corrections - Rehearing denied on August 17, 2005.

On November 7th, the Petitioner filed a Motion For Extension of Time to file a Petition For a Writ of Certiorari with this Court.. On November 16, 2005, Honorable Supreme Court Justice Anthony Kennedy extended the time to and including December 15, 2005 for said Petition to be filed.

The statutory provisions which confer on jurisdiction in this Petition are the 14th Amendment to the U.S. Constitution involving "due process" which states: Section 1. "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive

process of law, nor deny to any person within it's jurisdiction the equal protection of the laws," and Title VII, 42.U.S.C § 2000e et seq.

Concise Statement of the Case

On August 1, 2003, the Petitioner was terminated from her employment as a Correctional Probation Specialist with the Florida Department, after (13) thirteen years of employment. During this timeframe she had filed several complaints of discrimination and retaliation against high level officials within the agency. Her complaints began in February 1997 while the Petitioner worked directly for Regional Administrators. She complained of harassment, racial slurs and retaliation, and subsequently received a written reprimand and was transferred. No action was taken against administrators. Most recently, she filed a lawsuit against her employer on 2-15-2002 (pro-se) alleging that the agency refused to fill an equivalent Correctional Probation Specialist position in her office for over one year, forcing her to work overtime hours to maintain the high risk violent offender released from Florida's prisons on conditional release. The other eight sub-offices in Broward County each had two three or four of Specialists assigned and working. While the lawsuit was still pending, the Respondent terminated her employment alleging she failed to include overtime hours on her timesheet and or

falsified her timesheet. At the time, the agency informed it's employees no overtime was being paid due to the exhaustion of funds. The Petitioner appealed her termination with the (PERC) Public Employee's Relations Commission which affirmed the termination. She then appealed the termination to the 4th District Court of Appeals on December 30, 2003, and supplemented her complaint to add a claim of racial discrimination and retaliation /wrongful termination on October 30, 2003 with the District Court. The District Court then struck her race discrimination claim as a result of a motion filed by the Respondent. While both claims were pending, the District Court granted partial summary judgment in the Petitioner's termination claim(4-8-04) relying on the PERC determination in it's decision. The Petitioner had previously filed the transcript of the PERC hearing on 10-16-03 in which conflicting statements had been made in regard to the availability of the "case load printouts," by Broward Administrator Monroe, however this issue was overlooked by the District Court. On December 29, 2004, the 4th District Court of Appeals affirmed her termination, and a Motion For Rehearing was denied on February 16, 2005. A Petition For Discretionary Review was then filed with the Florida Supreme Court,

Faye Wright-Simpson v. Florida Department of Corrections under the premise that as a state government employee the Petitioner was a "Constitutional Officer," and that state officials, who are "Constitutional Officers" had engaged in ethical violations by covering up the "Sexual Battery" arrest of another Specialist (Jenkins). The Florida Supreme Court denied said petition on September 22, 2005.

On February 23, 2004, trial counsel Kenneth Mair was retained by the Petitioner in the District Court case. On March 30, 2004, the District Court granted an order to reopen discovery, and Petitioner's counsel began taking additional depositions. On April 4, 2004, the District Court granted partial summary judgment in her termination claim prior to the close of the ongoing discovery. On May 11-13, 2004, a jury trial was held before a jury in regard to the Petitioner's remaining claims that she was overburdened with work. On May 13, 2004, prior to the case being submitted to the jury for deliberation, the Respondent filed a Motion For Judgment As A Matter of Law, which was granted by the District Court. At the close of the case, the Petitioner requested the withdrawal of her trial counsel and filed a Motion For Withdrawal on June 16, 2004. The Court granted her motion on June 30, 2004.

The Petitioner then proceeded Pro-Se. On June 14, 2004, the Petitioner filed a Alter/Vacate/Amend the judgment and Renewed Motion For Reconsideration of Summary Judgment. The Petitioner also attached the probable cause affidavit for another Correctional Probation Specialist Willie Lee Jenkins (R- 193) who had been arrested and convicted of Sexual Battery (5 cts) and Violation of Injunction For Domestic Violence. Mr. Jenkins had also served felony probation for these offenses, and had not been terminated. On June 14, 2004, the District Court denied the Petitioner's motion as "moot." On 6-15-04, the District Court enter it's order of "Final Judgment" in favor of the Respondent. On July 8, 2004 , the Petitioner filed a notice of appeal. On July 29, 2004, the Petitioner filed a Motion to Waive/Reduce the Cost of the Trial Transcript for appeal to the 11th Circuit. The Petitioner at the time did not have the ability to pay the over $1,000 up front fee immediately required by the Court Reporter before providing the trial transcript. On August 11, 2004, the District Court denied the Petitioner's motion and alternatively granted a motion to tax costs against the Petitioner in the amount of $3, 138.63 (8-20-04). On May 19, 2005, the 11th Circuit Court of Appeals affirmed the granting of partial summary judgment by the District Court and judgment as a matter of law. On June 7, 2005, the Petitioner filed a Petition for Rehearing and Request To obtain the trial

transcript for review of the trial testimony, because she was now able to pay the $1,000. The 11th Circuit denied her Petition For Rehearing /Rehearing En Banc.

The Petitioner has filed a Petition For a Writ of Certiorari to (1) resolve a conflict among the Circuit's regarding the standard for "inability to pay" when "pro-se" plaintiff's make requests to "reduce" or "pro-rate" to cost of trial transcripts and (2) whether the Petitioner's due process right to a fair and impartial process were violated when the District Court adopted a lower State Court's opinion when granting partial summary judgment and judgment as a matter of law, while overlooking sworn statements of the Respondent's key witness (R-120- Transcript of PERC Hearing)on September 24, 2003. These statements by Broward Administrator Donald Monroe contradicted statements presented by Respondent's counsel to the District Court Judge (R-38) on January 21, 2003. Had the District Court reviewed the transcript of the PERC proceeding in the record in which witness Circuit Administrator Donald Monroe claimed the case load printouts were available because they were forwarded to him by the 10th of each month, these inconsistencies would have been revealed.